

EXHIBIT D

BURGESS LETTER TO RICHARDSON



K. Chad Burgess
Director & Deputy General Counsel

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July 20, 2018

VIA ELECTRONIC MAIL AND U.S. FIRST CLASS MAIL

Matthew T. Richardson, Esquire
WYCHE, P.A.
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Re: Discovery Responses of the Joint Applicants in *Joint Application and Petition of South Carolina Electric & Gas Company and Dominion Energy, Inc.*, Docket No. 2017-370-E

Dear Matthew:

I write in response to your letter dated July 17, 2018, regarding the responses of South Carolina Electric & Gas Company ("SCE&G") and Dominion Energy, Incorporated (together, "Joint Applicants") to the discovery requests and Audit Information Requests issued by the South Carolina Office of Regulatory Staff ("ORS") in the above-referenced matter.

As you know, the Joint Applicants are fully engaged with ORS staff related to the production of documents and information and have made every effort to comply in a timely manner with each and every one of ORS's numerous requests. SCE&G alone has produced over 2.5 million pages to ORS in response to 370 individual requests, with multiple subparts. This is not to mention the numerous sets of audit information requests for records and information, bringing the total number of discovery requests to 478 as well as the continuing and recurring demands for information by ORS's audit department, utility rates department, and nuclear department. There is no question that the Joint Applicants have engaged in good faith efforts to timely comply with the hundreds of discovery requests received from ORS in this action.

Your letter fails to account for these good faith interactions and the massive amount of documents and information that has been provided to ORS to date. For example, when ORS in-house counsel called to inquire about SCE&G's Response 1-22, I informed counsel that I was working toward completing the production of ORS Set No. 8 and that, when that task was completed I would then turn to her inquiry of

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Response 1-22 and provide a response. ORS counsel did not indicate to me in any manner that this planned course of action was problematic or unacceptable to ORS. Instead, ORS counsel expressed sympathy toward me and was very kind in doing so.

Beyond that, neither your firm nor your client reached out to the Joint Applicants to discuss in good faith the alleged deficiencies in the privilege log before sending this letter, other than to ask if SCE&G meant to mark its privilege log confidential, to which I replied in the affirmative and was then told that ORS's outside counsel was making this an issue. Moreover, rather than discuss this matter with the Joint Applicants and try to resolve the issues, it appears that ORS would prefer to publicize this matter by allowing your July 17, 2018 letter to be disclosed to the press and then further commenting on this dispute publicly, before even discussing it with the Joint Applicants. *SCE&G wants to keep secret 1.4 million pages of V.C. Summer nuclear documents*, THE STATE (July 18, 2018). With more time to evaluate the alleged "deficiencies," and a reasonable meet and confer as required by South Carolina Rule of Civil Procedure 11(a), the parties might have been able to narrow this dispute. Instead you have unreasonably demanded a response to your letter in less than 80 hours. And you have done this while our outside counsel has requested an opportunity to discuss your discovery requests in this proceeding and the potential coordination of discovery between this matter and the ongoing ratepayer litigation. We remain willing to discuss these issues among the parties.

The Format of Joint Applicants' Document Productions

With respect to ORS's complaint about not being provided documents in a searchable format, you claim that ORS has made its preferred production format clear in all of its requests but this is not the case. Based upon our review, ORS did not begin making this demand until its fourth set of audit information requests dated March 9, 2018. If you identify the specific requests that you would like to be produced in a searchable format, then the Joint Applicants are willing to supplement their response. In the interest of time, however, it is our understanding that ORS has the technology to convert the documents provided to it into a searchable format because it is required to file documents at the Public Service Commission of South Carolina in searchable format. Please let us know how ORS would like for the Joint Applicants to proceed.

As for ORS's specific complaint about Request No. 4-66, enclosed is a compact disc with the requested information. Please be advised that this information is confidential and as such, has been appropriately marked and is being provided to ORS pursuant to S.C. Code Ann. § 58-4-55 (2015, as amended). Therefore, SCE&G respectfully requests that ORS implement measures necessary to ensure that

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SCE&G's confidential information is properly protected in furtherance of ORS's duties under § 58-4-55.

Turning to Request No. 4-72 and 4-73, SCE&G utilizes Oracle Hyperion Strategic Finance to aggregate and consolidate the annual corporate budget and Oracle Essbase for reporting of that data. This software is owned by Oracle and not by SCE&G. We presume that ORS does not own this software either. Without the functionality of the software, the "live format" of data that ORS seeks is of no value, which is why SCE&G produced a hard copy of this information.

Requests Related to the Tax Cuts and Jobs Act of 2017

With respect to ORS's requests regarding the Tax and Jobs Act of 2017, the Joint Applicants are continuing to analyze the impact of this new law, and as has been stated, do not anticipate completing this work until the week of July 30, 2018. If the Joint Applicants complete their work prior to this date, then they will provide the requested information at that time. Until then, the Joint Applicants are not able to update their responses.

While it is perhaps commendable that other utilities have completed their tax-related work, we are unaware of another South Carolina utility that is engaged in any transaction similar to the one the Joint Applicants have presented to the Public Service Commission of South Carolina. Moreover, we have no way of knowing whether other utilities have provided "the same information" to ORS because ORS only publishes the Joint Applicants' responses to ORS's tax-related questions on its website.

As for SCE&G's natural gas operations, ORS knows very well that the rate mechanism applicable to SCE&G's natural gas business is separate and distinct from the rate mechanism applied to SCE&G's electric business. As ORS is aware, the electric business is comprised of the base electric business as well as the nine discreet new nuclear revised rates filings, each including an income tax component. The evaluation of the Tax and Jobs Act of 2017 is complicated and must be carefully evaluated by reviewing factors including current taxes, deferred taxes including net operating losses, and other tax positions. Complicating the evaluation even more is the abandonment of the nuclear plant which provides net deferred tax benefits that are being considered in assessing the overall impact of tax reform. Further complicating the evaluation is the Commission-approved Act 258 decrement rider in July of 2018, which changes (and reduces) the tax benefits to customers. Many of these issues are not present with SCE&G's natural gas business and therefore, it is easier to apply the newly enacted changes in law to natural gas rates than it is to

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electric rates. This explains why SCE&G has completed its review for natural gas and not electric.

Lastly, and contrary to ORS's belief otherwise, the Joint Applicants are not attempting to achieve any tactical advantage over ORS concerning this matter because there is no need to gain a tactical advantage over ORS. The Joint Applicants have been very clear in their statements that SCE&G's customers will receive the full benefits resulting from the new tax law and that remains the case.

SCE&G's Privilege Log

SCE&G has produced a detailed privilege log identifying the date of the document, the author, recipients and copyees of the document, the type of document, as well as a description of the document setting forth the basis for why each document is protected by either attorney-client privilege or work product doctrine. To the extent ORS has specific issues with these entries, SCE&G invites ORS to raise those specific issues directly with SCE&G so that they can be addressed. We spent significant time describing the bases for withholding documents on this log such that, without more specificity from you on the documents or descriptions you intend to challenge, it is very difficult to understand what you are asking us to resolve.

1. Documents Related to Bechtel

SCE&G is well aware of Joint Applicants' filing made in response to ORS's Motion to Compel related to the Bechtel Report. SCE&G is actively involved in reviewing Bechtel-related documents to determine what material may be disclosed. Given the scope of the documents, however, SCE&G requires additional time to make these determinations and produce any responsive, non-privileged documents related to Bechtel.

2. Documents Responsive to Request No. 5-26

Following the announcement that Westinghouse would file for bankruptcy in March 2017, SCE&G began the process of conducting an independent analysis of the Estimate to Complete/Cost to Complete ("ETC/CTC") the Project. In April 2017, a number of SCANA/SCE&G employees from various departments were tasked with preparing several studies related to the ETC/CTC of the VC Summer Project in preparation for a potential BLRA proceeding resulting from Westinghouse's bankruptcy. These efforts were conducted at the direction of outside regulatory counsel. As such, the vast majority of the documents responsive to this request are confidential and covered by the attorney client privilege or work product doctrine. However, SCE&G will evaluate your statement that various analyses have been

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shared with Norm Richardson, and will either revise the log or produce documents accordingly.

3. Privilege Log Entry No. 78

SCE&G will produce this document in a supplemental production.

Claims of "Omissions" From the Privilege Log

1. The Format of the Privilege Log

SCE&G will revise the privilege log to include Bates Stamp numbers for redacted documents. As to the confidentiality asserted over the privilege log, SCE&G disagrees with your statement.

2. Request No. 4-27

Request No. 4-27 requests studies, analyses, and presentations made to the SCE&G board. Request No. 4-26 requests studies, analyses, and presentations made to SCANA's board. In response 4-27, SCE&G referred ORS to response 4-26. Contrary to ORS's belief otherwise, SCE&G has provided documents responsive to request 4-27.

3. Request No. 6-8

SCE&G made available the document responsive to Request No. 6-8 in Joint Applicants' Response to the ORS's Motion to Compel filed on June 18, 2018. See Exhibit 14 to Joint Applicants' Response to the ORS's Motion to Compel.

4. Request No. 6-16

Joint Applicants produced 471 non-privileged documents responsive to this request on April 25, 2018. There are no additional documents that have been withheld based on privilege in response to this request and thus none appear on the log.

Additional Claims of Deficiencies in the July 6, 2018 Production

1. Request No. 1-20

Enclosed is the Joint Applicants' First Supplemental Response to this request.

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2. Request No. 1-22

Request No. 1-22 seeks the production of "SCANA Minutes of the Board of Directors Meetings held from January 1, 2015 through December 31, 2017." The information that ORS complains that it did not receive is not responsive to the request.

3. Request No. 1-44

Enclosed is the Joint Applicants' First Supplemental Response to this request. Please be advised that these documents are confidential and as such, have been appropriately marked and are being provided to ORS pursuant to S.C. Code Ann. § 58-4-55 (2015, as amended). Therefore, SCE&G respectfully requests that ORS implement measures necessary to ensure that SCE&G's confidential information is properly protected in furtherance of ORS's duties under § 58-4-55.

* * * *

In conclusion, the Joint Applicants are more than happy to engage in meaningful discussions with ORS on these matters, but to threaten the Joint Applicants in the manner described in your letter is not helpful. In fact, it only seeks to strain the relationship between ORS and the Joint Applicants, which is not something the Joint Applicants desire.

If you have any questions, please advise.

Very truly yours,



K. Chad Burgess

KCB/kms
Enclosures